

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
Wheeling**

TISHA DAWN RAINES,

Petitioner,

v.

CIVIL ACTION NO. 5:22-CV-66

Judge Bailey

WARDEN McCaffrey,

Respondent.

ORDER RE-ADOPTING REPORT AND RECOMMENDATION

Pending before this Court is petitioner's Response to Report and Recommendation [Doc. 14], filed on July 27, 2022.¹

Pursuant to 28 U.S.C. § 636(b)(1)(c), this Court is required to make a *de novo* review of those portions of the magistrate judge's findings to which objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. ***Thomas v. Arn***, 474 U.S. 140, 150 (1985). Nor is this Court required to conduct a *de novo* review when the party makes only "general and conclusory objections that do not direct the court to a specific error in the magistrate's

¹This Court entered an Order Adopting Report and Recommendation [Doc. 9] on June 28, 2022, after hearing no objection from petitioner within the applicable deadline time frame. On July 13, 2022, petitioner filed a Response [Doc. 11] informing this Court that she had not received a copy of the Report and Recommendation. Accordingly, this Court granted petitioner additional time to file objections and provided her with a copy of the Report and Recommendation. See [Doc. 12].

proposed findings and recommendations.” **Orpiano v. Johnson**, 687 F.2d 44, 47 (4th Cir. 1982).

In addition, failure to file timely objections constitutes a waiver of *de novo* review and the right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); **Snyder v. Ridenour**, 889 F.2d 1363, 1366 (4th Cir. 1989); **United States v. Schronce**, 727 F.2d 91, 94 (4th Cir. 1984). *Pro se* filings must be liberally construed and held to a less stringent standard than those drafted by licensed attorneys, however, courts are not required to create objections where none exist. **Haines v. Kerner**, 404 U.S. 519, 520 (1972); **Gordon v. Leeke**, 574 F.2d 1147, 1151 (4th Cir. 1971). Here, petitioner timely filed her objections following the extension granted by this Court.

“When a party does make objections, but these objections are so general or conclusory that they fail to direct the district court to any specific error by the magistrate judge, *de novo* review is unnecessary.” **Green v. Rubenstein**, 644 F.Supp.3d 723, 730 (S.D. W.Va. 2009) (citing **Orpiano v. Johnson**, 687 F.2d 44, 47 (4th Cir. 1982)). “When only a general objection is made to a portion of a magistrate judge’s report-recommendation, the Court subjects that portion of the report-recommendation to only a clear error review.” **Williams v. New York State Div. of Parole**, 2012 WL 2873569, at *2 (N.D.N.Y. July 12, 2012).

A party waives any objection to an R&R that lacks adequate specificity. See **Mario v. P & C Food Markets, Inc.**, 313 F.3d 758, 766 (2d Cir. 2002) (finding that a party’s objections to the magistrate judge’s R&R were not specific enough to preserve the claim for review). Bare statements “devoid of any reference to specific findings or recommendation . . . and unsupported by legal authority, [are] not sufficient.” **Mario**, 313 F.3d at 766. Pursuant

to the Federal Rules of Civil Procedure and this Court's Local Rules, "referring the court to previously filed papers or arguments does not constitute an adequate objection." *Id.*; *see also* Fed. R. Civ. P. 72(b); LR PL P 12.

In petitioner's cursory objections, she merely reasserts her contention concerning misclassification. She makes no argument whatsoever to the magistrate judge's correct conclusion that a federal prisoner's custody classification is not cognizable in habeas under § 2241. *See* [Doc. 7 at 3–5]. Accordingly, the objections are overruled.

For these reasons, the magistrate judge's Report and Recommendation is **REAFFIRMED**, and petitioner's § 2241 petition [Doc. 1] is **DENIED AND DISMISSED**.

It is so **ORDERED**.

The Clerk is directed to mail a copy of this Order via certified mail, return receipt requested, to petitioner, and to dismiss this case from the active docket of this Court.

DATED: July 27, 2022.


JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE